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Sixty-third session

Third Committee

Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Austria, Belgium, Bulgaria, Czech Republic, Chile, Croatia, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mexico, Monaco, Netherlands, Norway, Panama, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Protection of human rights and fundamental freedoms while countering terrorism

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Recalling the Universal Declaration of Human Rights,¹

Reaffirming further that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Reiterating the important contribution of measures taken at all levels against terrorism, consistent with international law, in particular international human rights law and refugee and humanitarian law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human rights, as well as the need to continue this fight, including through international cooperation and the strengthening of the role of the United Nations in this respect,

¹ Resolution 217 A (III).



Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee law and international humanitarian law,

Recognizing that respect for all human rights, respect for democracy and respect for the rule of law are interrelated and mutually reinforcing,

Noting with concern measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, and the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures,

Stressing that measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law, including international human rights law, international refugee law and international humanitarian law,

Recalling article 30 of the Universal Declaration of Human Rights¹ and reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,²

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Reaffirming that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Noting the declarations, statements and recommendations of a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,³ in the fight against terrorism,

² See sect. I, para. 17, of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/24 (Part I), chap. III).

³ United Nations, *Treaty Series*, vol. 1465, No. 24841.

Recalling its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006 and 62/159 of 18 December 2007, Commission on Human Rights resolutions 2003/68 of 25 April 2003,⁴ 2004/87 of 21 April 2004⁵ and 2005/80 of 21 April 2005,⁶ and other relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, including Council decision 2/112 of 27 November 2006⁷ and resolution 7/7 of 27 March 2008,⁸

Acknowledging the work of the Human Rights Council in promoting respect for the protection of human rights and fundamental freedoms in the fight against terrorism,

Recognizing the importance of the United Nations Global Counter-Terrorism Strategy, adopted on 8 September 2006,⁹ and reaffirming its relevant clauses on measures to ensure respect for human rights for all, international humanitarian law and the rule of law as the fundamental basis for the fight against terrorism,

Recalling also its resolution 62/272 of 5 September 2008, by which, after the first review of the implementation of the Global Counter-Terrorism Strategy, it called upon the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms while countering terrorism,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;
2. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance;
3. *Reaffirms* the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,¹⁰ to respect certain rights as non-derogable in any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations;¹¹
4. *Calls upon* States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;
5. *Reaffirms* that counter-terrorism measures should be implemented in full consideration of the human rights of persons belonging to minorities and must not

⁴ See *Official Records of the Economic and Social Council, 2003, Supplement No. 3 (E/2003/23)*, chap. II, sect. A.

⁵ *Ibid.*, 2004, *Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

⁶ *Ibid.*, 2005, *Supplement No. 3 and corrigenda (E/2005/23 and Corr.1 and 2)*, chap. II, sect. A.

⁷ See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 53 (A/62/53)*, chap. I, sect. B.

⁸ *Ibid.*, *Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II.

⁹ Resolution 60/288.

¹⁰ See resolution 2200 A (XXI), annex.

¹¹ See, for example, General Comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001.

be discriminatory on grounds such as race, colour, sex, language, religion or social origin;

6. *Calls upon* States not to resort to profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including on racial, ethnic and/or religious grounds;

7. *Urges* States, while countering terrorism, to fully comply with their obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment, in particular the absolute prohibition of torture;

8. *Urges* States to fully respect non-refoulement obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

9. *Calls upon* States to refrain from returning persons, including in cases related to terrorism, to their countries of origin or to a third State whenever such transfer would be contrary to their obligations under international law, in particular human rights law, international humanitarian law and international refugee law, including in cases where there are substantial grounds for believing that they would be in danger of subjection to torture, or where their life or freedom would be threatened in violation of international refugee law on account of their race, religion, nationality, membership of a particular social group or political opinion, bearing in mind obligations that States may have to prosecute individuals not returned;

10. *Also calls upon* States to ensure that guidelines and practices in all border control operations and other pre-entry mechanisms are clear and fully respect their obligations under international law, particularly refugee law and human rights law, towards persons seeking international protection;

11. *Urges* States, while countering terrorism, to ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights,¹² and their obligations under the International Covenant on Civil and Political Rights¹⁰ and under the Geneva Conventions of 1949¹² and the Additional Protocols thereto, and the 1951 Convention relating to the Status of Refugees¹³ and the 1967 Protocol thereto¹⁴ in their respective fields of applicability;

12. *Also urges* all States to take all necessary steps to ensure that persons deprived of liberty, regardless of the place of arrest or detention, benefit from the guarantees to which they are entitled under international law, including the review of the detention and, when subjected to trial, fundamental judicial guarantees;

13. *Opposes* any form of deprivation of liberty that amounts to placing a detained person outside the protection of the law, and urges States to respect the safeguards concerning the liberty, security and dignity of the person and to treat all prisoners in all places of detention in accordance with international law, including human rights law and international humanitarian law;

¹² United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

¹³ *Ibid.*, vol. 189, No. 2545.

¹⁴ *Ibid.*, vol. 606, No. 8791.

14. *Acknowledges* the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance in its resolution 61/177 of 20 December 2006, and recognizes that the entry into force of the Convention will be an important step in support of the rule of law in countering terrorism;

15. *Reaffirms* that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism;

16. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to give due consideration to the recommendations of the special procedures and mechanisms of the Human Rights Council and the relevant comments and views of United Nations human rights treaty bodies;

17. *Calls upon* States to ensure that their laws criminalizing acts of terror and terrorism-related acts are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including human rights law;

18. *Emphasizes* that targeted sanctions are a significant tool in countering terrorism and have a direct impact on targeted individuals and entities, recognizes the need to continue ensuring that fair and clear procedures are strengthened in order to enhance the efficiency and transparency of the United Nations targeted sanctions regime and in this regard welcomes the modifications introduced by the Security Council in its resolution 1822 (2008) of 30 June 2008, including the relevant provisions regarding the review of the Consolidated List, and encourages the Security Council and its Committee established pursuant to resolution 1267 (1999) to continue enhancing their efforts in support of these objectives, while taking into consideration further relevant and appropriate proposals;

19. *Urges* States, while ensuring full compliance with their international obligations, to include adequate human rights guarantees in their national procedures for the listing of individuals and entities with a view to combating terrorism;

20. *Takes note with appreciation* of the report of the Secretary-General¹⁵ and the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism¹⁶ submitted pursuant to resolution 62/159, and takes note of the recommendations and conclusions contained therein;

21. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and other relevant special procedures and mechanisms of the Human Rights

¹⁵ A/63/337.

¹⁶ See A/63/223.

Council, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

22. *Calls upon* States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy,⁹ which, inter alia, reaffirms respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism;

23. *Requests* the Office of the High Commissioner and the Special Rapporteur to continue to contribute to the work of the Counter-Terrorism Implementation Task Force, including by raising awareness about the need to respect human rights while countering terrorism;

24. *Requests* the Counter-Terrorism Implementation Task Force to continue its efforts to ensure that entities of the United Nations system can better coordinate and enhance their support to Member States in their efforts to implement their obligations under international law, including international human rights law, international refugee law and international humanitarian law while countering terrorism;

25. *Calls upon* international, regional and subregional organizations to strengthen information-sharing, coordination and cooperation in promoting the protection of human rights and fundamental freedoms while countering terrorism;

26. *Acknowledges with appreciation* the cooperation between the Special Rapporteur and all other relevant procedures and mechanisms of the Human Rights Council as well as the United Nations human rights treaty bodies, and urges them to continue their cooperation, in accordance with their mandates, and to coordinate their efforts, where appropriate, in order to promote a consistent approach on this subject;

27. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the urgent appeals of the Special Rapporteur and providing the information requested, as well as to cooperate with other relevant procedures and mechanisms of the Human Rights Council dealing with the promotion and protection of human rights and fundamental freedoms while countering terrorism;

28. *Calls upon* States to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

29. *Welcomes* the work of the United Nations High Commissioner for Human Rights to implement the mandate given to her in 2005, in resolution 60/158, and requests the High Commissioner to continue her efforts in this regard;

30. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Human Rights Council and to the General Assembly at its sixty-fourth session;

31. *Decides* to consider at its sixty-fourth session the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.



General Assembly

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20 November 2008

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**Sixty-third session
Third Committee**

Agenda item 64 (b)

**Promotion and protection of human rights: human rights
questions, including alternative approaches for improving the
effective enjoyment of human rights and fundamental freedoms**

Albania, Angola, Argentina, Armenia, Austria, Belgium, Benin, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Iraq, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mexico, Monaco, Montenegro, Netherlands, Nicaragua, Nigeria, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, Senegal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay and Venezuela (Bolivarian Republic of):
revised draft resolution

**Protection of human rights and fundamental freedoms while
countering terrorism**

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations,

Reaffirming also the fundamental importance, including in response to terrorism and the fear of terrorism, of respecting all human rights and fundamental freedoms and the rule of law,

Reaffirming further the Universal Declaration of Human Rights,¹

Reaffirming that States are under the obligation to protect all human rights and fundamental freedoms of all persons,

Reiterating the important contribution of measures taken at all levels against terrorism, consistent with international law, in particular international human rights law and refugee and humanitarian law, to the functioning of democratic institutions and the maintenance of peace and security and thereby to the full enjoyment of human

¹ Resolution 217 A (III).



rights, as well as the need to continue this fight, including through international cooperation and the strengthening of the role of the United Nations in this respect,

Deeply deploring the occurrence of violations of human rights and fundamental freedoms in the context of the fight against terrorism, as well as violations of international refugee law and international humanitarian law,

Recognizing that respect for all human rights, respect for democracy and respect for the rule of law are interrelated and mutually reinforcing,

Noting with concern measures that can undermine human rights and the rule of law, such as the detention of persons suspected of acts of terrorism in the absence of a legal basis for detention and due process guarantees, the deprivation of liberty that amounts to placing a detained person outside the protection of the law, the trial of suspects without fundamental judicial guarantees, the illegal deprivation of liberty and transfer of individuals suspected of terrorist activities, and the return of suspects to countries without individual assessment of the risk of there being substantial grounds for believing that they would be in danger of subjection to torture, and limitations to effective scrutiny of counter-terrorism measures,

Stressing that measures used in the fight against terrorism, including the profiling of individuals and the use of diplomatic assurances, memorandums of understanding and other transfer agreements or arrangements, must be in compliance with the obligations of States under international law, including international human rights law, international refugee law and international humanitarian law,

Recalling article 30 of the Universal Declaration of Human Rights¹ and reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,²

Reaffirming its unequivocal condemnation of all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomsoever committed, regardless of their motivation, as criminal and unjustifiable, and renewing its commitment to strengthen international cooperation to prevent and combat terrorism,

Reaffirming that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Noting the declarations, statements and recommendations of a number of human rights treaty monitoring bodies and special procedures on the question of the compatibility of counter-terrorism measures with human rights obligations,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment, and of abiding strictly by the definition of torture

² See sect. I, para. 17, of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/24 (Part I), chap. III).

contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,³ in the fight against terrorism,

Recalling its resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003, 59/191 of 20 December 2004, 60/158 of 16 December 2005, 61/171 of 19 December 2006 and 62/159 of 18 December 2007, Commission on Human Rights resolutions 2003/68 of 25 April 2003,⁴ 2004/87 of 21 April 2004⁵ and 2005/80 of 21 April 2005,⁶ and other relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, including Council decision 2/112 of 27 November 2006⁷ and resolution 7/7 of 27 March 2008,⁸

Recalling also Human Rights Council resolution 6/28 of 14 December 2007,⁹ by which the Council decided to extend the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for a period of three years,

Recalling further its resolution 48/141 of 20 December 1993 and, *inter alia*, the responsibility of the United Nations High Commissioner for Human Rights to promote and protect the effective enjoyment of all human rights,

Acknowledging the work of the Human Rights Council in promoting respect for the protection of human rights and fundamental freedoms in the fight against terrorism,

Recognizing the importance of the United Nations Global Counter-Terrorism Strategy, adopted on 8 September 2006,¹⁰ and reaffirming its relevant clauses on measures to ensure respect for human rights for all, international humanitarian law and the rule of law as the fundamental basis for the fight against terrorism,

Recalling its resolution 62/272 of 5 September 2008, by which it called upon the United Nations entities involved in supporting counter-terrorism efforts to continue to facilitate the promotion and protection of human rights and fundamental freedoms while countering terrorism,

1. *Reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

2. *Deeply deplores* the suffering caused by terrorism to the victims and their families, expresses its profound solidarity with them, and stresses the importance of providing them with assistance;

3. *Reaffirms* the obligation of States, in accordance with article 4 of the International Covenant on Civil and Political Rights,¹¹ to respect certain rights as

³ United Nations, *Treaty Series*, vol. 1465, No. 24841.

⁴ See *Official Records of the Economic and Social Council, 2003, Supplement No. 3 (E/2003/23)*, chap. II, sect. A.

⁵ *Ibid.*, 2004, *Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

⁶ *Ibid.*, 2005, *Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

⁷ See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 53 (A/62/53)*, chap. I, sect. B.

⁸ *Ibid.*, *Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II.

⁹ *Ibid.*, chap. I.

¹⁰ Resolution 60/288.

¹¹ See resolution 2200 A (XXI), annex.

non-derogable in any circumstances, recalls, in regard to all other Covenant rights, that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, and underlines the exceptional and temporary nature of any such derogations;¹²

4. *Calls upon* States to raise awareness about the importance of these obligations among national authorities involved in combating terrorism;

5. *Reaffirms* that counter-terrorism measures should be implemented in full consideration of the human rights of all, including persons belonging to national or ethnic, religious and linguistic minorities, and must not be discriminatory on grounds such as race, colour, sex, language, religion or social origin;

6. *Calls upon* States not to resort to profiling based on stereotypes founded on grounds of discrimination prohibited by international law, including on racial, ethnic and/or religious grounds;

7. *Urges* States, while countering terrorism, to fully comply with their obligations with regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

8. *Urges* States to fully respect non-refoulement obligations under international refugee and human rights law and, at the same time, to review, with full respect for these obligations and other legal safeguards, the validity of a refugee status decision in an individual case if credible and relevant evidence comes to light that indicates that the person in question has committed any criminal acts, including terrorist acts, falling under the exclusion clauses under international refugee law;

9. *Calls upon* States to refrain from returning persons, including in cases related to terrorism, to their countries of origin or to a third State whenever such transfer would be contrary to their obligations under international law, in particular human rights law, international humanitarian law and international refugee law, including in cases where there are substantial grounds for believing that they would be in danger of subjection to torture, or where their life or freedom would be threatened in violation of international refugee law on account of their race, religion, nationality, membership of a particular social group or political opinion, bearing in mind obligations that States may have to prosecute individuals not returned;

10. *Also calls upon* States to ensure that guidelines and practices in all border control operations and other pre-entry mechanisms are clear and fully respect their obligations under international law, particularly refugee law and human rights law, towards persons seeking international protection;

11. *Urges* States, while countering terrorism, to ensure due process guarantees, consistent with all relevant provisions of the Universal Declaration of Human Rights,¹ and their obligations under the International Covenant on Civil and Political Rights¹¹ and under the Geneva Conventions of 1949¹³ and the Additional Protocols thereto, and the 1951 Convention relating to the Status of Refugees¹⁴ and the 1967 Protocol thereto¹⁵ in their respective fields of applicability;

¹² See, for example, General Comment No. 29 on states of emergency adopted by the Human Rights Committee on 24 July 2001.

¹³ United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

¹⁴ *Ibid.*, vol. 189, No. 2545.

¹⁵ *Ibid.*, vol. 606, No. 8791.

12. *Also urges* all States to take all necessary steps to ensure that persons deprived of liberty, regardless of the place of arrest or detention, benefit from the guarantees to which they are entitled under international law, including the review of the detention and, if subjected to trial, fundamental judicial guarantees;

13. *Opposes* any form of deprivation of liberty that amounts to placing a detained person outside the protection of the law, and urges States to respect the safeguards concerning the liberty, security and dignity of the person and to treat all prisoners in all places of detention in accordance with international law, including human rights law and international humanitarian law;

14. *Acknowledges* the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance in its resolution 61/177 of 20 December 2006, and recognizes that the entry into force of the Convention will be an important step in support of the rule of law in countering terrorism;

15. *Reaffirms* that it is imperative that all States work to uphold and protect the dignity of individuals and their fundamental freedoms, as well as democratic practices and the rule of law, while countering terrorism;

16. *Encourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to give due consideration to the recommendations of the special procedures and mechanisms of the Human Rights Council and the relevant comments and views of United Nations human rights treaty bodies;

17. *Calls upon* States to ensure that their laws criminalizing acts of terrorism are accessible, formulated with precision, non-discriminatory, non-retroactive and in accordance with international law, including human rights law;

18. *Emphasizes* that United Nations terrorism-related targeted sanctions are a significant tool in countering terrorism and have a direct impact on targeted individuals and entities, recognizes the need to continue ensuring that fair and clear procedures are strengthened in order to enhance the efficiency and transparency of the United Nations terrorism-related sanctions regime, and welcomes and encourages the Security Council's continued enhancement of efforts in support of these objectives,¹⁶ while taking into consideration relevant and appropriate proposals;

19. *Urges* States, while ensuring full compliance with their international obligations, to include adequate human rights guarantees in their national procedures for the listing of individuals and entities with a view to combating terrorism;

20. *Takes note with appreciation* of the report of the Secretary-General¹⁷ and the report of the Special Rapporteur of the Human Rights Council on the promotion and protection of human rights and fundamental freedoms while countering terrorism¹⁸ submitted pursuant to resolution 62/159, and takes note of the recommendations and conclusions contained therein;

21. *Welcomes* the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human

¹⁶ See Security Council resolution 1822 (2008).

¹⁷ A/63/337.

¹⁸ See A/63/223.

rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and other relevant special procedures and mechanisms of the Human Rights Council, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism;

22. *Calls upon* States and other relevant actors, as appropriate, to continue to implement the United Nations Global Counter-Terrorism Strategy,¹⁰ which, inter alia, reaffirms respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism;

23. *Requests* the Office of the High Commissioner and the Special Rapporteur to continue to contribute to the work of the Counter-Terrorism Implementation Task Force, including by raising awareness about the need to respect human rights while countering terrorism;

24. *Requests* the Counter-Terrorism Implementation Task Force to continue its efforts to ensure that the United Nations can better coordinate and enhance support to Member States in their efforts to implement their obligations under international law, including international human rights law, international refugee law and international humanitarian law while countering terrorism;

25. *Calls upon* international, regional and subregional organizations to strengthen information-sharing, coordination and cooperation in promoting the protection of human rights and fundamental freedoms while countering terrorism;

26. *Acknowledges with appreciation* the cooperation between the Special Rapporteur and all other relevant procedures and mechanisms of the Human Rights Council as well as the United Nations human rights treaty bodies, and urges them to continue their cooperation, in accordance with their mandates, and to coordinate their efforts, where appropriate, in order to promote a consistent approach on this subject;

27. *Expresses serious concern* about the occurrence of violations of human rights and fundamental freedoms caused while countering terrorism, and requests the Special Rapporteur, within the context of his mandate, to continue to make recommendations with regard to preventing, combating and redressing these situations;

28. *Requests* all Governments to cooperate fully with the Special Rapporteur in the performance of the tasks and duties mandated, including by reacting promptly to the urgent appeals of the Special Rapporteur and providing the information requested, as well as to cooperate with other relevant procedures and mechanisms of the Human Rights Council dealing with the promotion and protection of human rights and fundamental freedoms while countering terrorism;

29. *Calls upon* States to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries;

30. *Welcomes* the work of the United Nations High Commissioner for Human Rights to implement the mandate given to her in 2005, in resolution 60/158, and requests the High Commissioner to continue her efforts in this regard;

31. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Human Rights Council and to the General Assembly at its sixty-fourth session;

32. *Decides* to consider at its sixty-fourth session the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.



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Sixty-third session

Agenda item 64 (c)

Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Fiji, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Micronesia (Federated States of), Monaco, New Zealand, Netherlands, Norway, Palau, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in the Islamic Republic of Iran

The General Assembly,

Guided by the Charter of the United Nations, as well as the Universal Declaration of Human Rights,¹ the International Covenants on Human Rights² and other international human rights instruments,

Recalling its previous resolutions on the situation of human rights in the Islamic Republic of Iran, the most recent of which is resolution 62/168 of 18 December 2007,

1. *Takes note* of the report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran,³ submitted pursuant to General Assembly resolution 62/168, which highlights a broad range of serious human rights violations, legal and institutional gaps and impediments to the protection of human rights and which discusses some positive developments in a few areas;

2. *Expresses its deep concern* at serious human rights violations in the Islamic Republic of Iran relating to, inter alia:

(a) Torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations;

¹ Resolution 217 A (III).

² Resolution 2200 A (XXI), annex.

³ A/63/459.



(b) The continuing high incidence of executions carried out in the absence of internationally recognized safeguards, including public executions and executions of juveniles;

(c) Persons in prison who continue to face sentences of execution by stoning;

(d) Arrests, violent repression and sentencing of women exercising their right to peaceful assembly, a campaign of intimidation against women's human rights defenders, and continuing discrimination against women and girls in law and in practice;

(e) Increasing discrimination and other human rights violations against persons belonging to religious, ethnic, linguistic or other minorities, recognized or otherwise, including, inter alia, Arabs, Azeris, Baluchis, Kurds, Christians, Jews, Sufis and Sunni Muslims and their defenders, and, in particular, attacks on Baha'is and their faith in State-sponsored media, increasing evidence of efforts by the State to identify and monitor Baha'is, preventing members of the Baha'i faith from attending university and from sustaining themselves economically, and the arrest and detention of seven Baha'i leaders without charge or access to legal representation;

(f) Ongoing, systemic and serious restrictions of freedom of peaceful assembly and association and freedom of opinion and expression, including those imposed on the media, Internet users and trade unions, and increasing harassment, intimidation and persecution of political opponents and human rights defenders from all sectors of Iranian society, including arrests and violent repression of labour leaders, labour members peacefully assembling and students, in particular with regard to the 2008 Majles electoral process;

(g) Severe limitations and restrictions on freedom of religion and belief, including the provision in the proposed draft penal code that sets out a mandatory death sentence for apostasy;

(h) Persistent failure to uphold due process of law rights, and violation of the rights of detainees, including the systematic and arbitrary use of prolonged solitary confinement;

3. *Calls upon* the Government of the Islamic Republic of Iran to address the substantive concerns highlighted in the report of the Secretary-General and the specific calls to action found in previous resolutions of the General Assembly, and to respect fully its human rights obligations, in law and in practice, in particular:

(a) To eliminate, in law and in practice, amputations, flogging and other forms of torture and other cruel, inhuman or degrading treatment or punishment;

(b) To abolish, in law and in practice, public executions and other executions carried out in the absence of respect for internationally recognized safeguards;

(c) To abolish, pursuant to its obligations under article 37 of the Convention on the Rights of the Child⁴ and article 6 of the International Covenant on Civil and Political Rights,⁵ executions of persons who at the time of their offence were under the age of 18;

⁴ United Nations, *Treaty Series*, vol. 1577, No. 27531.

⁵ Resolution 2200 A (XXI), annex.

- (d) To abolish the use of stoning as a method of execution;
- (e) To eliminate, in law and in practice, all forms of discrimination and other human rights violations against women and girls;
- (f) To eliminate, in law and in practice, all forms of discrimination and other human rights violations against persons belonging to religious, ethnic, linguistic or other minorities, recognized or otherwise, to refrain from monitoring individuals on the basis of their religious beliefs, and to ensure that access of minorities to education and employment is on par with that of all Iranians;
- (g) To implement, inter alia, the 1996 report of the Special Rapporteur on religious intolerance,⁶ which recommended ways in which the Islamic Republic of Iran could emancipate the Baha'i community;
- (h) To end the harassment, intimidation and persecution of political opponents and human rights defenders, including by releasing persons imprisoned arbitrarily or on the basis of their political views;
- (i) To uphold due process of law rights and to end impunity for human rights violations;

4. *Notes* the positive although limited gains, developments and steps discussed in the report of the Secretary-General, but remains concerned that many such steps have yet to be implemented in law or in practice;

5. *Further calls upon* the Government of the Islamic Republic of Iran to redress its inadequate record of cooperation with international human rights mechanisms by, inter alia, reporting pursuant to its obligations to the treaty bodies of the instruments to which it is a party and cooperating fully with all international human rights mechanisms, including facilitating visits to its territory of special procedures mandate holders, and encourages the Government of the Islamic Republic of Iran to continue exploring cooperation on human rights and justice reform with the United Nations, including the Office of the United Nations High Commissioner for Human Rights;

6. *Requests* an update from the Secretary-General on the situation of human rights in the Islamic Republic of Iran, including its cooperation with international human rights mechanisms, at its sixty-fourth session;

7. *Decides* to continue its examination of the situation of human rights in the Islamic Republic of Iran at its sixty-fourth session under the item entitled "Promotion and protection of human rights".

⁶ See E/CN.4/1996/95/Add.2.



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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Angola, Argentina, Armenia, Austria, Azerbaijan, Belgium, Benin, Brazil, Bulgaria, Chile, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mexico, Monaco, Netherlands, Nicaragua, Panama, Paraguay, Poland, Portugal, Romania, Spain, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of): draft resolution

International Convention for the Protection of All Persons from Enforced Disappearance

The General Assembly,

Reaffirming its resolution 61/177 of 20 December 2006, by which it adopted and opened for signature, ratification and accession the International Convention for the Protection of All Persons from Enforced Disappearance,

Recalling its resolution 47/133 of 18 December 1992, by which it adopted the Declaration on the Protection of All Persons from Enforced Disappearances as a body of principles for all States,

Recalling also Human Rights Council resolution 7/12 of 27 March 2008, by which the Council extended the mandate of the Working Group on Enforced or Involuntary Disappearances for a further period of three years,

Deeply concerned in particular by the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these are part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,



Acknowledging that acts of enforced disappearance are recognized by the Convention as crimes against humanity, in certain circumstances,

Recognizing that the entry into force of the Convention, as soon as possible, through its ratification by twenty States, will be a significant event,

1. *Welcomes* the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance on 20 December 2006, and looks forward to its entry into force at an early date;

2. *Also welcomes* the fact that since the signing ceremony for the Convention, on 6 February 2007, seventy-nine States have signed the Convention and five have ratified it, and calls upon States which have not done so yet to consider signing and ratifying the Convention as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances;

3. *Requests* the Secretary-General and the United Nations High Commissioner of Human Rights to intensify efforts to assist States to become parties to the Convention, with a view to achieving universal adherence;

4. *Requests* United Nations agencies and organizations, and invites intergovernmental and non-governmental organizations and the Working Group on Enforced or Involuntary Disappearances, to continue undertaking efforts to disseminate information on the Convention, to promote its understanding, to prepare for its entry into force and to assist States parties in implementing their obligations under this instrument;

5. *Requests* the Secretary-General to submit to the General Assembly, at its sixty-fourth session, a report on the status of the Convention and the implementation of the present resolution.



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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Angola, Bahamas, Bahrain, Barbados, Belarus, Benin, Burkina Faso, Burundi, China, Côte d'Ivoire, Cuba, Ecuador, Egypt, Eritrea, Ethiopia, Fiji, Ghana, Guatemala, Guinea, Haiti, Honduras, Indonesia, Kenya, Kuwait, Libyan Arab Jamahiriya, Madagascar, Mali, Mauritania, Namibia, Nepal, Niger, Pakistan, Panama, Saudi Arabia, Senegal, Serbia, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Uganda, Ukraine, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe: draft resolution

The right to food

The General Assembly,

Reaffirming all previous resolutions and decisions on the right to food adopted within the framework of the United Nations,

Recalling the Universal Declaration of Human Rights,¹ which provides that everyone has the right to a standard of living adequate for her or his health and well-being, including food, the Universal Declaration on the Eradication of Hunger and Malnutrition² and the United Nations Millennium Declaration,³ in particular Millennium Development Goal 1, eradicating extreme poverty and hunger by 2015,

Recalling also the provisions of the International Covenant on Economic, Social and Cultural Rights,⁴ in which the fundamental right of every person to be free from hunger is recognized,

¹ Resolution 217 A (III).

² *Report of the World Food Conference. Rome, 5-16 November 1974* (United Nations publication, Sales No. E.75.II.A.3), chap. I.

³ See resolution 55/2.

⁴ See resolution 2200 A (XXI), annex.



Reaffirming the Rome Declaration on World Food Security and the World Food Summit Plan of Action⁵ and the Declaration of the World Food Summit: five years later, adopted in Rome on 13 June 2002,⁶

Reaffirming also the concrete recommendations contained in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004,⁷

Bearing in mind paragraph 6 of its resolution 60/251 of 15 March 2006,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated, and that they must be treated globally, in a fair and equal manner, on the same footing and with the same emphasis,

Reaffirming also that a peaceful, stable and enabling political, social and economic environment, at both the national and international levels, is the essential foundation that will enable States to give adequate priority to food security and poverty eradication,

Reiterating, as in the Rome Declaration on World Food Security and the Declaration of the World Food Summit: five years later, that food should not be used as an instrument of political or economic pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures that are not in accordance with international law and the Charter of the United Nations and that endanger food security,

Convinced that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration on World Food Security and the World Food Summit Plan of Action and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies where coordinated efforts and shared responsibilities are essential,

Recognizing the complex character of the worsening of the current global food crisis, which threatens to violate the right to adequate food on a massive scale,

Deeply concerned that environmental degradation, desertification and global climate change are exacerbating destitution and desperation and that the lack of the technology necessary to confront their impact, particularly in developing countries and the least developed countries, is having a negative impact on the realization of the right to food, in particular in developing countries,

Expressing its deep concern at the number and scale of natural disasters, diseases and pests and their increasing impact in recent years, which have resulted in massive loss of life and livelihood and threatened agricultural production and food security, in particular in developing countries,

⁵ Food and Agriculture Organization of the United Nations, *Report of the World Food Summit, 13-17 November 1996* (WFS 96 REP), part one, appendix.

⁶ Food and Agriculture Organization of the United Nations, *Report of the World Food Summit: five years later, 10-13 June 2002*, part one, appendix; see also A/57/499, annex.

⁷ Food and Agriculture Organization of the United Nations, *Report of the Council of the Food and Agriculture Organization of the United Nations, One Hundred and Twenty-seventh Session, Rome, 22-27 November 2004* (CL 127/REP), appendix D; see also E/CN.4/2005/131, annex.

Stressing the importance of reversing the continuing decline of official development assistance devoted to agriculture, both in real terms and as a share of total official development assistance,

Recognizing the role of the Food and Agriculture Organization of the United Nations as the United Nations agency for rural and agricultural development and its work in supporting the efforts of Member States to achieve the full realization of the right to food, including through its provision of technical assistance to developing countries,

Taking note of the final Declaration adopted at the International Conference on Agrarian Reform and Rural Development of the Food and Agriculture Organization of the United Nations in Porto Alegre, Brazil, on 10 March 2006,⁸

1. *Reaffirms* that hunger constitutes an outrage and a violation of human dignity and therefore requires the adoption of urgent measures at the national, regional and international levels for its elimination;

2. *Also reaffirms* the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities;

3. *Considers it intolerable* that more than 6 million children still die every year from hunger-related illness before their fifth birthday and that the number of people who are undernourished has grown to about 923 million worldwide, and that, while the prevalence of hunger is more striking, in particular after the global food crisis, the planet could produce enough food to feed 12 billion people, twice the world's present population;

4. *Expresses its concern* that women and girls are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality and discrimination, that in many countries, girls are twice as likely as boys to die from malnutrition and preventable childhood diseases and that it is estimated that almost twice as many women as men suffer from malnutrition;

5. *Encourages* all States to take action to address gender inequality and discrimination against women, in particular where it contributes to the malnutrition of women and girls, including measures to ensure the full and equal realization of the right to food and ensuring that women have equal access to resources, including income, land and water, to enable them to feed themselves and their families;

6. *Encourages* the Special Rapporteur of the Human Rights Council on the right to food to continue mainstreaming a gender perspective in the fulfilment of his mandate, and encourages the Food and Agriculture Organization of the United Nations and all other United Nations bodies and mechanisms addressing the right to food and food insecurity to integrate a gender perspective into their relevant policies, programmes and activities;

7. *Reaffirms* the need to ensure that programmes delivering safe and nutritious food are inclusive and accessible to persons with disabilities;

⁸ Food and Agriculture Organization of the United Nations, *Report of the International Conference on Agrarian Reform and Rural Development, Porto Alegre, Brazil, 7-10 March 2006* (C 2006/REP), appendix G.

8. *Encourages* all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and, as soon as possible, to enjoy fully the right to food, and to create and adopt national plans to combat hunger;

9. *Stresses* that comprehensive solutions to the external debt problem, as well as increasing the market access of developing countries and improving access to productive resources and public investment in rural development, are essential elements for eradicating hunger and poverty, in particular in developing countries, including through the promotion of investments in appropriate small-scale irrigation and water management technologies in order to reduce vulnerability to droughts;

10. *Recognizes* that 80 per cent of hungry people live in rural areas and 50 per cent are small-scale farm-holders, and that these people are especially vulnerable to food insecurity, given the increasing cost of inputs and the fall in farm incomes, that agricultural policies are important tools for promoting land and agrarian reform, rural credit, technical assistance, access to land, water, seeds and other natural resources and associated measures to achieve food security and rural development, and that support by States for small farmers, fishing communities and local enterprises is a key element for food security and the provision of the right to food;

11. *Stresses* the importance of fighting hunger in rural areas, including through national efforts supported by international partnerships to stop desertification and land degradation and through investments and public policies that are specifically appropriate to the risk of drylands, and in this regard calls for the full implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;⁹

12. *Urges* Member States to promote and protect all human rights of indigenous peoples in accordance with international human rights instruments and the United Nations Declaration on the Rights of Indigenous Peoples,¹⁰ acknowledges that many indigenous organizations and representatives of indigenous communities have expressed in different forums their deep concerns over the obstacles and challenges they face for the full enjoyment of the right to food, and calls upon States to take special actions to combat the root causes of the disproportionately high level of hunger and malnutrition among indigenous peoples and the continuous discrimination against them;

13. *Recognizes* that food sovereignty is important for achieving food security and realizing the right to food for all peoples at all times;

14. *Requests* all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields;

15. *Recognizes* the need to strengthen national commitment as well as international assistance, upon the request of and in cooperation with the affected countries, towards the full realization and protection of the right to food, and in

⁹ United Nations, *Treaty Series*, vol. 1954, No. 33480.

¹⁰ Resolution 61/295, annex.

particular to develop national protection mechanisms for people forced to leave their homes and land because of hunger;

16. *Stresses* the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, and to reinforce national actions to implement sustainable food security policies;

17. *Calls for* the early conclusion and a successful, development-oriented outcome of the Doha Development Round negotiations of the World Trade Organization as a contribution to creating international conditions that permit the full realization of the right to food;

18. *Stresses* that all States should make all efforts to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries;

19. *Recalls* the importance of the New York Declaration on Action against Hunger and Poverty, and recommends the continuation of efforts aimed at identifying additional sources of financing for the fight against hunger and poverty;

20. *Recognizes* that the commitment made at the World Food Summit in 1996 to halve the number of persons who are undernourished are not being fulfilled, and invites once again all international financial and development institutions, as well as the relevant United Nations agencies and funds, to give priority to and provide the necessary funding to realize the aim of halving by 2015 the proportion of people who suffer from hunger, as well as the right to food as set out in the Rome Declaration on World Food Security⁵ and the United Nations Millennium Declaration;³

21. *Reaffirms* that integrating food and nutritional support, with the goal that all people at all times will have access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life, is part of a comprehensive response to the spread of HIV/AIDS, tuberculosis, malaria and other communicable diseases;

22. *Urges* States to give adequate priority in their development strategies and expenditures to the realization of the right to food;

23. *Stresses* the importance of international development cooperation and assistance, in particular in activities related to emergency situations, including those resulting from natural disasters, for the realization of the right to food and the achievement of sustainable food security, while recognizing that each country has the primary responsibility for ensuring the implementation of national programmes and strategies in this regard;

24. *Stresses* that the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights¹¹ should be reconciled with the requirements of food security, conservation and the sustainable use of biological diversity, and urges Member States to ensure that the implementation of the Agreement remains

¹¹ See *Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakesh on 15 April 1994* (GATT secretariat publication, Sales No. GATT/1994-7).

fully compatible with their obligation to promote and protect the right to food, including the right of farmers to produce food under conditions that ensure an adequate standard of living;

25. *Calls upon* Member States, the United Nations system and other relevant stakeholders to support national efforts aimed at responding rapidly to the food crises currently occurring across Africa, and expresses its deep concern that funding shortfalls are forcing the World Food Programme to cut operations across different regions, including Southern Africa;

26. *Invites* all relevant international organizations, including the World Bank and the International Monetary Fund, to promote policies and projects that have a positive impact on the right to food, to ensure that partners respect the right to food in the implementation of common projects, to support strategies of Member States aimed at the fulfilment of the right to food and to avoid any actions that could have a negative impact on the realization of the right to food;

27. *Takes note* of the interim report of the Special Rapporteur on the right to food,¹² and welcomes the work and commitment of the first mandate-holder to achieving the realization of the right to food;

28. *Supports* the realization of the mandate of the Special Rapporteur, as extended by the Human Rights Council in its resolution 6/2;

29. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human and financial resources for the effective fulfilment of the mandate of the Special Rapporteur;

30. *Welcomes* the work already done by the Committee on Economic, Social and Cultural Rights in promoting the right to adequate food, in particular its General Comment No. 12 (1999) on the right to adequate food (article 11 of the International Covenant on Economic, Social and Cultural Rights),¹³ in which the Committee affirmed, inter alia, that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights, and is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all;

31. *Recalls* General Comment No. 15 (2002) of the Committee on the right to water (articles 11 and 12 of the Covenant),¹⁴ in which the Committee noted, inter alia, the importance of ensuring sustainable water resources for human consumption and agriculture in realization of the right to adequate food;

32. *Reaffirms* that the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004,⁷ represent a practical tool to promote the realization of the right to food for all, contribute to the achievement of food security and thus

¹² See A/63/278.

¹³ See *Official Records of the Economic and Social Council, 2000, Supplement No. 2 and corrigendum* (E/2000/22 and Corr.1), annex V.

¹⁴ *Ibid.*, 2003, *Supplement No. 2* (E/2003/22), annex IV.

provide an additional instrument in the attainment of internationally agreed development goals, including those contained in the Millennium Declaration;

33. *Welcomes* the continued cooperation of the High Commissioner, the Committee and the Special Rapporteur, and encourages them to continue their cooperation in this regard;

34. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in his task, to supply all necessary information requested by him and to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries to enable him to fulfil his mandate more effectively;

35. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-fourth session on the implementation of the present resolution and to continue his work, including by examining the emerging issues with regard to the realization of the right to food within his existing mandate;

36. *Invites* Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors and non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his mandate, inter alia, through the submission of comments and suggestions on ways and means of realizing the right to food;

37. *Decides* to continue the consideration of the question at its sixty-fourth session under the item entitled "Promotion and protection of human rights".



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The right to food

The General Assembly,

Reaffirming all previous resolutions and decisions on the right to food adopted within the framework of the United Nations,

Recalling the Universal Declaration of Human Rights,¹ which provides that everyone has the right to a standard of living adequate for her or his health and well-being, including food, the Universal Declaration on the Eradication of Hunger and Malnutrition² and the United Nations Millennium Declaration,³ in particular

¹ Resolution 217 A (III).

² *Report of the World Food Conference, Rome, 5-16 November 1974* (United Nations publication, Sales No. E.75.II.A.3), chap. I.

³ See resolution 55/2.



Millennium Development Goal 1 on eradicating extreme poverty and hunger by 2015,

Recalling also the provisions of the International Covenant on Economic, Social and Cultural Rights,⁴ in which the fundamental right of every person to be free from hunger is recognized,

Bearing in mind the Rome Declaration on World Food Security and the World Food Summit Plan of Action⁵ and the Declaration of the World Food Summit: five years later, adopted in Rome on 13 June 2002,⁶

Reaffirming the concrete recommendations contained in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004,⁷

Bearing in mind paragraph 6 of its resolution 60/251 of 15 March 2006,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated, and that they must be treated globally, in a fair and equal manner, on the same footing and with the same emphasis,

Reaffirming also that a peaceful, stable and enabling political, social and economic environment, at both the national and international levels, is the essential foundation that will enable States to give adequate priority to food security and poverty eradication,

Reiterating, as in the Rome Declaration on World Food Security and the Declaration of the World Food Summit: five years later, that food should not be used as an instrument of political or economic pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures that are not in accordance with international law and the Charter of the United Nations and that endanger food security,

Convinced that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration on World Food Security and the World Food Summit Plan of Action and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies where coordinated efforts and shared responsibilities are essential,

Recognizing the complex character of the worsening of the current global food crisis, in which the right to adequate food is threatened to be violated on a massive scale, as a combination of several major factors, including macroeconomic factors, exacerbated by environmental degradation, desertification and global climate change, natural disasters and the lack of the technology necessary to confront its

⁴ See resolution 2200 A (XXI), annex.

⁵ Food and Agriculture Organization of the United Nations, *Report of the World Food Summit, 13-17 November 1996* (WFS 96/REP), part one, appendix.

⁶ Food and Agriculture Organization of the United Nations, *Report of the World Food Summit: five years later, 10-13 June 2002*, part one, appendix; see also A/57/499, annex.

⁷ Food and Agriculture Organization of the United Nations, *Report of the Council of the Food and Agriculture Organization of the United Nations, One Hundred and Twenty-seventh Session, Rome, 22-27 November 2004* (CL 127/REP), appendix D; see also E/CN.4/2005/131, annex.

impact, particularly in developing countries, least developed countries and small island developing States,

Resolved to act to ensure that the human rights perspective is taken into account at the national, regional and international levels in measures to address the current world food crisis,

Expressing its deep concern at the number and scale of natural disasters, diseases and pests and their increasing impact in recent years, which have resulted in massive loss of life and livelihood and threatened agricultural production and food security, in particular in developing countries,

Stressing the importance of reversing the continuing decline of official development assistance devoted to agriculture, both in real terms and as a share of total official development assistance,

Recognizing the role of the Food and Agriculture Organization of the United Nations as the key United Nations agency for rural and agricultural development and its work in supporting the efforts of Member States to achieve the full realization of the right to food, including through its provision of technical assistance to developing countries in support of the implementation of national priority frameworks,

Taking note of the final Declaration adopted at the International Conference on Agrarian Reform and Rural Development of the Food and Agriculture Organization of the United Nations in Porto Alegre, Brazil, on 10 March 2006,⁸

1. *Reaffirms* that hunger constitutes an outrage and a violation of human dignity and therefore requires the adoption of urgent measures at the national, regional and international levels for its elimination;
2. *Also reaffirms* the right of everyone to have access to safe, sufficient and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger, so as to be able to fully develop and maintain his or her physical and mental capacities;
3. *Considers it intolerable* that more than 6 million children still die every year from hunger-related illness before their fifth birthday and that the number of people who are undernourished has grown to about 923 million worldwide, including as a result of the global food crisis, while, according to the Food and Agriculture Organization of the United Nations, the planet could produce enough food to feed 12 billion people, twice the world's present population;
4. *Expresses its concern* that women and girls are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality and discrimination, that in many countries, girls are twice as likely as boys to die from malnutrition and preventable childhood diseases and that it is estimated that almost twice as many women as men suffer from malnutrition;
5. *Encourages* all States to take action to address gender inequality and discrimination against women, in particular where it contributes to the malnutrition of women and girls, including measures to ensure the full and equal realization of

⁸ Food and Agriculture Organization of the United Nations, *Report of the International Conference on Agrarian Reform and Rural Development, Porto Alegre, Brazil, 7-10 March 2006* (C 2006/REP), appendix G.

the right to food and ensuring that women have equal access to resources, including income, land and water and their ownership, as well as full and equal access to education, science and technology, to enable them to feed themselves and their families;

6. *Encourages* the Special Rapporteur of the Human Rights Council on the right to food to continue mainstreaming a gender perspective in the fulfilment of his mandate, and encourages the Food and Agriculture Organization of the United Nations and all other United Nations bodies and mechanisms addressing the right to food and food insecurity to integrate a gender perspective into their relevant policies, programmes and activities;

7. *Reaffirms* the need to ensure that programmes delivering safe and nutritious food are inclusive of and accessible to persons with disabilities;

8. *Encourages* all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and, as soon as possible, to enjoy fully the right to food, and to create and adopt national plans to combat hunger;

9. *Recognizes* the advances reached through South-South cooperation in developing countries and regions in connection with food security and the development of agricultural production for the full realization of the right to food;

10. *Stresses* that improving access to productive resources and public investment in rural development are essential for eradicating hunger and poverty, in particular in developing countries, including through the promotion of investments in appropriate small-scale irrigation and water management technologies in order to reduce vulnerability to droughts;

11. *Recognizes* that 80 per cent of hungry people live in rural areas and 50 per cent are small-scale farm-holders, and that these people are especially vulnerable to food insecurity, given the increasing cost of inputs and the fall in farm incomes; that access to land, water, seeds and other natural resources is an increasing challenge for poor producers; that sustainable and gender-sensitive agricultural policies are important tools for promoting land and agrarian reform, rural credit and insurance, technical assistance and other associated measures to achieve food security and rural development; and that support by States for small farmers, fishing communities and local enterprises is a key element for food security and the provision of the right to food;

12. *Stresses* the importance of fighting hunger in rural areas, including through national efforts supported by international partnerships to stop desertification and land degradation and through investments and public policies that are specifically appropriate to the risk of drylands, and in this regard calls for the full implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;⁹

13. *Also stresses* its commitments to promote and protect, without discrimination, the economic, social and cultural rights of indigenous peoples in accordance with international human rights obligations and, taking into account, as

⁹ United Nations, *Treaty Series*, vol. 1954, No. 33480.

appropriate, the United Nations Declaration on the Rights of Indigenous Peoples,¹⁰ acknowledges that many indigenous organizations and representatives of indigenous communities have expressed in different forums their deep concerns over the obstacles and challenges they face for the full enjoyment of the right to food, and calls upon States to take special actions to combat the root causes of the disproportionately high level of hunger and malnutrition among indigenous peoples and the continuous discrimination against them;

14. *Notes* the need to further examine various concepts such as "food sovereignty" and their relation with food security and the right to food, bearing in mind the need to avoid any negative impact on the enjoyment of the right to food for all people at all times;

15. *Requests* all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields;

16. *Recognizes* the need to strengthen national commitment as well as international assistance, upon the request of and in cooperation with the affected countries, towards the full realization and protection of the right to food, and in particular to develop national protection mechanisms for people forced to leave their homes and land because of hunger or humanitarian emergencies affecting the enjoyment of the right to food;

17. *Stresses* the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, and to reinforce national actions to implement sustainable food security policies;

18. *Calls for* the early conclusion and a successful, development-oriented outcome of the Doha Round of trade negotiations of the World Trade Organization as a contribution to creating international conditions that permit the full realization of the right to food;

19. *Stresses* that all States should make all efforts to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries;

20. *Recalls* the importance of the New York Declaration on Action against Hunger and Poverty, and recommends the continuation of efforts aimed at identifying additional sources of financing for the fight against hunger and poverty;

21. *Recognizes* that the promises made at the World Food Summit in 1996 to halve the number of persons who are undernourished are not being fulfilled, and invites once again all international financial and development institutions, as well as the relevant United Nations agencies and funds, to give priority to and provide the necessary funding to realize the aim of halving by 2015 the proportion of people who suffer from hunger, as well as the right to food as set out in the Rome Declaration on World Food Security⁵ and the United Nations Millennium Declaration;³

¹⁰ Resolution 61/295, annex.

22. *Reaffirms* that integrating food and nutritional support, with the goal that all people at all times will have access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life, is part of a comprehensive response to the spread of HIV/AIDS, tuberculosis, malaria and other communicable diseases;

23. *Urges* States to give adequate priority in their development strategies and expenditures to the realization of the right to food;

24. *Stresses* the importance of international development cooperation and assistance, both as an effective contribution to the expansion of agriculture and food production and, in particular in activities related to emergency situations, for the realization of the right to food and the achievement of sustainable food security, while recognizing that each country has the primary responsibility for ensuring the implementation of national programmes and strategies in this regard;

25. *Also stresses* that the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights¹¹ should be implemented in a manner that is supportive of food security and fully compatible with the obligation to promote and protect the right to food, while reiterating the commitment of States parties to that agreement;

26. *Calls upon* Member States, the United Nations system and other relevant stakeholders to support national efforts aimed at responding rapidly to the food crises currently occurring across Africa, and expresses its deep concern that funding shortfalls are forcing the World Food Programme to cut operations across different regions, including Southern Africa;

27. *Invites* all relevant international organizations, including the World Bank and the International Monetary Fund, to continue to promote policies and projects that have a positive impact on the right to food, to ensure that partners respect the right to food in the implementation of common projects, to support strategies of Member States aimed at the fulfilment of the right to food and to avoid any actions that could have a negative impact on the realization of the right to food;

28. *Takes note with appreciation* of the interim report of the Special Rapporteur on the right to food¹² and the work and commitment of the first mandate-holder to achieving the realization of the right to food;

29. *Supports* the realization of the mandate of the Special Rapporteur, as extended by the Human Rights Council in its resolution 6/2;

30. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide all the necessary human and financial resources for the effective fulfilment of the mandate of the Special Rapporteur;

31. *Welcomes* the work already done by the Committee on Economic, Social and Cultural Rights in promoting the right to adequate food, in particular its General Comment No. 12 (1999) on the right to adequate food (article 11 of the International

¹¹ See *Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations*, done at Marrakesh on 15 April 1994 (GATT secretariat publication, Sales No. GATT/1994-7).

¹² See A/63/278.

Covenant on Economic, Social and Cultural Rights),¹³ in which the Committee affirmed, *inter alia*, that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights, and is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all;

32. *Recalls* General Comment No. 15 (2002) of the Committee on the right to water (articles 11 and 12 of the Covenant)¹⁴ in which the Committee noted, *inter alia*, the importance of ensuring sustainable water resources for human consumption and agriculture in realization of the right to adequate food;

33. *Reaffirms* that the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in November 2004,⁷ represent a practical tool to promote the realization of the right to food for all, contribute to the achievement of food security and thus provide an additional instrument in the attainment of internationally agreed development goals, including those contained in the Millennium Declaration;

34. *Welcomes* the continued cooperation of the High Commissioner, the Committee and the Special Rapporteur, and encourages them to continue their cooperation in this regard;

35. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in his task, to supply all necessary information requested by him and to give serious consideration to responding favourably to the requests of the Special Rapporteur to visit their countries to enable him to fulfil his mandate more effectively;

36. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixty-fourth session on the implementation of the present resolution and to continue his work, including by examining the emerging issues with regard to the realization of the right to food within his existing mandate;

37. *Invites* Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors and non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his mandate, *inter alia*, through the submission of comments and suggestions on ways and means of realizing the right to food;

38. *Decides* to continue the consideration of the question at its sixty-fourth session under the item entitled "Promotion and protection of human rights".

¹³ See *Official Records of the Economic and Social Council, 2000, Supplement No. 2 and corrigendum (E/2000/22 and Corr.1)*, annex V.

¹⁴ *Ibid.*, 2003, Supplement No. 2 (E/2003/22), annex IV.



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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Bolivia, Cuba, Ecuador, Ethiopia, Sudan and Venezuela (Bolivarian Republic of):
draft resolution

Respect for the right to universal freedom of travel and the vital importance of family reunification

The General Assembly,

Recalling its resolution 61/162 of 19 December 2006,

Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated,

Recalling the provisions of the Universal Declaration of Human Rights,¹ as well as article 12 of the International Covenant on Civil and Political Rights,²

Stressing that, as stated in the Programme of Action of the International Conference on Population and Development,³ family reunification of documented migrants is an important factor in international migration and that remittances by documented migrants to their countries of origin often constitute a very important source of foreign exchange and are instrumental in improving the well-being of relatives left behind,

Noting with great concern that, while some positive developments have occurred during the past few years in the accomplishment of the objectives highlighted in all previous resolutions adopted by the General Assembly on this matter,⁴ in particular relating to facilitating the flow of remittances across

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

⁴ Resolutions 57/227, 59/203 and 61/162.



international borders to help families, in certain cases it has been reported that measures have been adopted that increased the restrictions imposed on documented migrants in relation to family reunification and the possibility of sending remittances to their relatives in the country of origin.

Recalling that the family is the basic unit of society and, as such, should be strengthened, and that it is entitled to receive comprehensive protection and support,

1. *Once again calls upon* all States to guarantee the universally recognized freedom of travel to all foreign nationals legally residing in their territory;

2. *Reaffirms* that all Governments, in particular those of receiving countries, must recognize the vital importance of family reunification and promote its incorporation into national legislation in order to ensure protection of the unity of families of documented migrants;

3. *Calls upon* all States to allow, in conformity with international legislation, the free flow of financial remittances by foreign nationals residing in their territory to relatives in the country of origin;

4. *Also calls upon* all States to refrain from enacting, and to repeal if it already exists, legislation intended as a coercive measure that discriminates against individuals or groups of legal migrants by adversely affecting family reunification and the right to send financial remittances to relatives in the country of origin;

5. *Decides* to continue its consideration of the question at its sixty-fifth session under the item entitled "Promotion and protection of human rights".



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Agenda item 64 (b)

**Promotion and protection of human rights:
human rights questions, including alternative
approaches for improving the effective enjoyment
of human rights and fundamental freedoms**

Angola, Belarus, Bolivia, Burundi, China, Côte d'Ivoire, Cuba, Ecuador, Egypt, Ethiopia, Nicaragua, Pakistan, Sudan, Syrian Arab Republic, Uganda, Venezuela (Bolivarian Republic of) and Zimbabwe: draft resolution

Promotion of a democratic and equitable international order

The General Assembly,

Recalling its previous resolutions on the promotion of a democratic and equitable international order, including General Assembly resolution 61/160 of 19 December 2006, and taking note of Human Rights Council resolution 8/5 of 18 June 2008,

Reaffirming the commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations, other instruments relating to human rights and international law,

Affirming that the enhancement of international cooperation for the promotion and protection of all human rights should continue to be carried out in full conformity with the purposes and principles of the Charter and international law as set forth in Articles 1 and 2 of the Charter and, inter alia, with full respect for sovereignty, territorial integrity, political independence, the non-use of force or the threat of force in international relations and non-intervention in matters that are essentially within the domestic jurisdiction of any State,

Recalling the Preamble to the Charter, in particular the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small,



Reaffirming that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights¹ can be fully realized,

Reaffirming also the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good-neighbourliness, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Considering the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, the rule of law, pluralism, development, better standards of living and solidarity,

Considering also that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Emphasizing that democracy is not only a political concept but that it also has economic and social dimensions,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centred sustainable development,

Noting with concern that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion,

Underlining the fact that it is imperative for the international community to ensure that globalization becomes a positive force for all the world's people, and that only through broad and sustained efforts, based on common humanity in all its diversity, can globalization be made fully inclusive and equitable,

Recognizing the complex character of the worsening of the current global food, fuel and financial crises, in which the adequate enjoyment of all human rights is threatened to be violated, as a combination of several major factors, including macroeconomic and other factors, such as environmental degradation,

¹ Resolution 217 A (III).

desertification and global climate change, natural disasters and the lack of the technology necessary to confront its impact, particularly in developing countries and least developed countries,

Stressing that efforts to make globalization fully inclusive and equitable must include policies and measures, at the global level, that correspond to the needs of developing countries and countries with economies in transition and are formulated and implemented with their effective participation,

Having listened to the peoples of the world, and recognizing their aspirations to justice, to equality of opportunity for all, to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life,

Resolved to take all measures within its power to secure a democratic and equitable international order,

1. *Affirms* that everyone is entitled to a democratic and equitable international order;

2. *Also affirms* that a democratic and equitable international order fosters the full realization of all human rights for all;

3. *Calls upon* all Member States to fulfil their commitment expressed in Durban, South Africa, during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to maximize the benefits of globalization through, inter alia, the strengthening and enhancement of international cooperation to increase equality of opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies, and increased intercultural exchange through the preservation and promotion of cultural diversity,² and reiterates that only through broad and sustained efforts to create a shared future based upon our common humanity and all its diversity can globalization be made fully inclusive and equitable;

4. *Affirms* that a democratic and equitable international order requires, inter alia, the realization of the following:

(a) The right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development;

(b) The right of peoples and nations to permanent sovereignty over their natural wealth and resources;

(c) The right of every human person and all peoples to development;

(d) The right of all peoples to peace;

(e) The right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States;

(f) International solidarity, as a right of peoples and individuals;

² See A/CONF.189/12 and Corr.1, chap. I.

(g) The promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principles of full and equal participation in their respective decision-making mechanisms;

(h) The right to equitable participation of all, without any discrimination, in domestic and global decision-making;

(i) The principle of equitable regional and gender-balanced representation in the composition of the staff of the United Nations system;

(j) The promotion of a free, just, effective and balanced international information and communications order, based on international cooperation for the establishment of a new equilibrium and greater reciprocity in the international flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(k) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(l) The right of every person and all peoples to a healthy environment and to enhanced international cooperation that responds effectively to the needs for assistance of national efforts to adapt to climate change, particularly in developing countries, and that promotes the fulfilment of international agreements in the field of mitigation;

(m) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in economic, commercial and financial international relations;

(n) The enjoyment by everyone of ownership of the common heritage of mankind in connection to the public right of access to culture;

(o) The shared responsibility of the nations of the world for managing worldwide economic and social development as well as threats to international peace and security that should be exercised multilaterally;

5. *Stresses* the importance of preserving the rich and diverse nature of the international community of nations and peoples, as well as respect for national and regional particularities and various historical, cultural and religious backgrounds in the enhancement of international cooperation in the field of human rights;

6. *Also stresses* that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and reaffirms that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

7. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual

understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

8. *Reaffirms* that all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries;

9. *Recalls* the proclamation by the General Assembly of its determination to work urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems, which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries, and ensure steadily accelerating economic and social development and peace and justice for present and future generations;³

10. *Reaffirms* that the international community should devise ways and means to remove the current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting therefrom throughout the world;

11. *Urges* States to continue their efforts, through enhanced international cooperation, towards the promotion of a democratic and equitable international order;

12. *Requests* the Human Rights Council, the human rights treaty bodies, the Office of the United Nations High Commissioner for Human Rights and the special mechanisms extended by the Human Rights Council and Human Rights Council Advisory Committee to pay due attention, within their respective mandates, to the present resolution and to make contributions towards its implementation;

13. *Calls upon* the Office of the High Commissioner to build upon the issue of the promotion of a democratic and equitable international order;

14. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs, bodies and components, intergovernmental organizations, in particular the Bretton Woods institutions, and non-governmental organizations, and to disseminate it on the widest possible basis;

15. *Decides* to continue consideration of the matter at its sixty-fifth session under the item entitled "Promotion and protection of human rights".

³ See resolution 3201 (S-VI).



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Agenda item 64 (a) and (b)

Promotion and protection of human rights: implementation of human rights instruments; human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Belarus, Benin, Burundi, China, Côte d'Ivoire, Cuba, Egypt, Ethiopia, Lao People's Democratic Republic, Madagascar, Myanmar, Nicaragua, South Africa, Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe: draft resolution

Equitable geographical distribution in the membership of the human rights treaty bodies

The General Assembly,

Recalling its previous resolutions in this regard,

Reaffirming the importance of the goal of universal ratification of the United Nations human rights instruments,

Welcoming the significant increase in the number of ratifications of United Nations human rights instruments, which has especially contributed to their universality,

Reiterating the importance of the effective functioning of treaty bodies established pursuant to United Nations human rights instruments for the full and effective implementation of those instruments,

Recalling that, with regard to the election of the members of the human rights treaty bodies, the General Assembly as well as the Commission on Human Rights recognized the importance of giving consideration in their membership to equitable geographical distribution, gender balance and representation of the principal legal systems and of bearing in mind that the members shall be elected and shall serve in their personal capacity, and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights,



Reaffirming the significance of national and regional particularities and various historical, cultural and religious backgrounds, as well as of different political, economic and legal systems,

Recognizing that the United Nations pursues multilingualism as a means of promoting, protecting and preserving diversity of languages and cultures globally and that genuine multilingualism promotes unity in diversity and international understanding,

Recalling that the General Assembly as well as the Commission on Human Rights encouraged States parties to United Nations human rights treaties, individually and through meetings of States parties, to consider how to give better effect, inter alia, to the principle of equitable geographical distribution in the membership of treaty bodies,

Expressing concern at the regional imbalance in the current composition of the membership of some of the human rights treaty bodies,

Noting in particular that the status quo tends to be particularly detrimental to the election of experts from some regional groups,

Convinced that the goal of equitable geographical distribution in the membership of human rights treaty bodies is perfectly compatible and can be fully realized and achieved in harmony with the need to ensure gender balance and the representation of the principal legal systems in those bodies and the high moral character, acknowledged impartiality and recognized competence in the field of human rights of their members,

1. *Encourages* the States parties to the United Nations human rights instruments to consider and adopt concrete actions, inter alia, the possible establishment of quota distribution systems by geographical region for the election of the members of the treaty bodies, thereby ensuring the paramount objective of equitable geographical distribution in the membership of those human rights bodies;
2. *Calls upon* the States parties to the United Nations human rights instruments to include a debate on ways and means to ensure equitable geographical distribution in the membership of the human rights treaty bodies, based on previous recommendations of the Commission on Human Rights and the Economic and Social Council and the provisions of the present resolution;
3. *Recommends*, when considering the possible establishment of a quota by region for the election of the membership of each treaty body, the introduction of flexible procedures that encompass the following criteria:
 - (a) Each of the five regional groups established by the General Assembly must be assigned a quota of the membership of each treaty body in equivalent proportion to the number of States parties to the instrument that it represents;
 - (b) There must be provision for periodic revisions that reflect the relative changes in the geographical distribution of States parties;
 - (c) Automatic periodic revisions should be envisaged in order to avoid amending the text of the instrument when the quotas are revised;
4. *Stresses* that the process needed to achieve the goal of equitable geographical distribution in the membership of human rights treaty bodies can

contribute to raising awareness of the importance of gender balance, the representation of the principal legal systems and the principle that the members of the treaty bodies shall be elected and shall serve in their personal capacity, and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights;

5. *Requests* the chairpersons of the human rights treaty bodies to consider at their next meeting the content of the present resolution and to submit, through the United Nations High Commissioner for Human Rights, specific recommendations for the achievement of the goal of equitable geographical distribution in the membership of the human rights treaty bodies;

6. *Requests* the United Nations High Commissioner for Human Rights to submit concrete recommendations on the implementation of the present resolution to the General Assembly at its sixty-fourth session;

7. *Decides* to continue its consideration of this question at its sixty-fourth session under the item entitled "Promotion and protection of human rights".



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Sixty-third session Third Committee

Agenda item 60 (a)

Promotion and protection of the rights of children;
promotion and protection of the rights of children

Liechtenstein, New Zealand, Norway and Switzerland: draft resolution

Rights of the child

The General Assembly,

Reaffirming the Convention on the Rights of the Child¹ and the Optional Protocols to the Convention,²

Welcoming the work of the Committee on the Rights of the Child in examining the progress made by States parties to the Convention on the Rights of the Child and the Optional Protocols thereto in implementing the obligations undertaken in the Convention, and the Optional Protocols,

Taking note of the report of the Secretary-General on the status of the Convention on the Rights of the Child,³

Noting the proposal of the Committee regarding its working methods,

1. *Takes note* of the report of the Committee on the Rights of the Child⁴ and to decision taken by the Committee at its forty-eighth session⁵ to request approval from the General Assembly to meet in parallel chambers so as to facilitate the effective and timely implementation of its responsibilities under article 44 of the Convention on the Rights of the Child,¹ and articles 8 and 12 of its Optional Protocols;²

2. *Notes*, while welcoming the entry into force of the Optional Protocols, that a backlog of more than eighty reports exists, related to the submission by States parties of their initial reports under the Optional Protocols in conformity with their

¹ United Nations, *Treaty Series*, vol. 1577, No. 27531.

² *Ibid.*, vols. 2171 and 2173, No. 27531.

³ A/63/160.

⁴ *Official Records of the General Assembly, Sixty-third Session, Supplement No. 41 (A/63/41)*.

⁵ A/63/160, annex.



obligations, and that, if this backlog is not addressed, it will impede the ability of the Committee to consider reports in a timely manner;

3. *Expresses its appreciation*, in light of this temporary and exceptional increase in the number of reports before the Committee, for the efforts of the Committee to reform its working methods so as to consider the reports of States parties in a timely manner, including its proposal, as an exceptional and temporary measure, to work in two chambers, taking due account of equitable geographical distribution, for a period of two years, in order to clear the backlog of reports;

4. *Decides*, as an exceptional and temporary measure, to authorize the Committee to meet in parallel chambers, of nine members each, for ten working days during each of its three regular sessions and for five working days during the weeks of its pre-sessional meetings between October 2009 and January 2011;

5. *Requests* the Committee, when sitting in chambers, to take due account of equitable geographical distribution and gender balance among Committee members;

6. *Urges* States parties to comply fully with their obligations under the Convention and the Optional Protocols thereto and to give serious consideration to the concluding comments as well as the general recommendations of the Committee on the Rights of the Child;

7. *Urges* the Committee to intensify its efforts to review its working methods in order to further enhance the efficiency and quality of its proceedings, with the aim of achieving timely consideration of reports submitted by States parties, and requests the Committee to review and assess its progress made after two years, taking into account the wider context of treaty body reform.



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Agenda item 64 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Liechtenstein, New Zealand, Norway and Switzerland: draft resolution

Committee on the rights of the child

The General Assembly,

Reaffirming the Convention on the Rights of the Child¹ and the Optional Protocols to the Convention,²

Welcoming the work of the Committee on the Rights of the Child in examining the progress made by States parties to the Convention on the Rights of the Child and the Optional Protocols thereto in implementing the obligations undertaken in the Convention, and the Optional Protocols,

Taking note of the report of the Secretary-General on the status of the Convention on the Rights of the Child,³

Noting the proposal of the Committee regarding its working methods,

1. *Takes note* of the report of the Committee on the Rights of the Child⁴ and the decision taken by the Committee at its forty-eighth session⁵ to request approval from the General Assembly to meet in parallel chambers so as to facilitate the effective and timely implementation of its responsibilities under article 44 of the Convention on the Rights of the Child,¹ and articles 8 and 12 of its Optional Protocols;²

2. *Notes*, while welcoming the entry into force of the Optional Protocols, that a backlog of more than 80 reports exists, related to the submission by States

* Reissued for technical reasons.

¹ United Nations, *Treaty Series*, vol. 1577, No. 27531.

² *Ibid.*, vols. 2171 and 2173, No. 27531.

³ A/63/160.

⁴ *Official Records of the General Assembly, Sixty-third Session, Supplement No. 41 (A/63/41).*

⁵ A/63/160, annex.



parties of their initial reports under the Optional Protocols in conformity with their obligations, and that, if this backlog is not addressed, it will impede the ability of the Committee to consider reports in a timely manner;

3. *Expresses its appreciation*, in light of this temporary and exceptional increase in the number of reports before the Committee, for the efforts of the Committee to reform its working methods so as to consider the reports of States parties in a timely manner, including its proposal, as an exceptional and temporary measure, to work in two chambers, taking due account of equitable geographical distribution, for a period of two years, in order to clear the backlog of reports;

4. *Decides*, as an exceptional and temporary measure, to authorize the Committee to meet in parallel chambers, of nine members each, for 10 working days during each of its three regular sessions and for five working days during the weeks of its pre-sessional meetings between October 2009 and January 2011;

5. *Requests* the Committee, when sitting in chambers, to take due account of equitable geographical distribution and gender balance among Committee members;

6. *Urges* States parties to comply fully with their obligations under the Convention and the Optional Protocols thereto and to give serious consideration to the concluding comments as well as the general recommendations of the Committee on the Rights of the Child;

7. *Urges* the Committee to intensify its efforts to review its working methods in order to further enhance the efficiency and quality of its proceedings, with the aim of achieving timely consideration of reports submitted by States parties, and requests the Committee to review and assess its progress made after two years, taking into account the wider context of treaty body reform.



General Assembly

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Sixty-third session

Third Committee

Agenda item 58

Report of the Human Rights Council

Albania, Angola, Armenia, Belgium, Benin, Bosnia and Herzegovina, Bulgaria, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Djibouti, Ecuador, Egypt, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea-Bissau, Hungary, Italy, Mexico, Montenegro, Morocco, Panama, Peru, Portugal, Sao Tome and Principe, Senegal, Serbia, Slovakia, Slovenia, Spain, the former Yugoslav Republic of Macedonia, Timor-Leste, Uganda and Uruguay:
draft resolution

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

The General Assembly,

Taking note of the adoption by the Human Rights Council, through its resolution 8/2 of 18 June 2008, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

1. *Adopts* the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the text of which is annexed to the present resolution;
2. *Recommends* that the Optional Protocol be opened for signature at a signing ceremony to be held in 2009, and requests the Secretary-General and the United Nations High Commissioner for Human Rights to provide the necessary assistance.



Annex

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

Preamble

The States Parties to the present Protocol,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Noting that the Universal Declaration of Human Rights¹ proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that the Universal Declaration of Human Rights and the International Covenants on Human Rights² recognize that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy civil, cultural, economic, political and social rights,

Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms,

Recalling that each State Party to the International Covenant on Economic, Social and Cultural Rights² (hereinafter referred to as the Covenant) undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures,

Considering that, in order further to achieve the purposes of the Covenant and the implementation of its provisions, it would be appropriate to enable the Committee on Economic, Social and Cultural Rights (hereinafter referred to as the Committee) to carry out the functions provided for in the present Protocol,

Have agreed as follows:

Article I

Competence of the Committee to receive and consider communications

1. A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications as provided for by the provisions of the present Protocol.
2. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

¹ Resolution 217 A (III).

² Resolution 2200 A (XXI), annex.

Article 2

Communications

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Article 3

Admissibility

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted. This shall not be the rule where the application of such remedies is unreasonably prolonged.

2. The Committee shall declare a communication inadmissible when:

(a) It is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit;

(b) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date;

(c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

(d) It is incompatible with the provisions of the Covenant;

(e) It is manifestly ill-founded, not sufficiently substantiated or exclusively based on reports disseminated by mass media;

(f) It is an abuse of the right to submit a communication; or when

(g) It is anonymous or not in writing.

Article 4

Communications not revealing a clear disadvantage

The Committee may, if necessary, decline to consider a communication where it does not reveal that the author has suffered a clear disadvantage, unless the Committee considers that the communication raises a serious issue of general importance.

Article 5

Interim measures

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.

2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.

Article 6

Transmission of the communication

1. Unless the Committee considers a communication inadmissible without reference to the State Party concerned, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State Party concerned.
2. Within six months, the receiving State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been provided by that State Party.

Article 7

Friendly settlement

1. The Committee shall make available its good offices to the parties concerned with a view to reaching a friendly settlement of the matter on the basis of the respect for the obligations set forth in the Covenant.
2. An agreement on a friendly settlement closes consideration of the communication under the present Protocol.

Article 8

Examination of communications

1. The Committee shall examine communications received under article 2 of the present Protocol in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned.
2. The Committee shall hold closed meetings when examining communications under the present Protocol.
3. When examining a communication under the present Protocol, the Committee may consult, as appropriate, relevant documentation emanating from other United Nations bodies, specialized agencies, funds, programmes and mechanisms, and other international organizations, including from regional human rights systems, and any observations or comments by the State Party concerned.
4. When examining communications under the present Protocol, the Committee shall consider the reasonableness of the steps taken by the State Party in accordance with part II of the Covenant. In doing so, the Committee shall bear in mind that the State Party may adopt a range of possible policy measures for the implementation of the rights set forth in the Covenant.

Article 9

Follow-up to the views of the Committee

1. After examining a communication, the Committee shall transmit its views on the communication, together with its recommendations, if any, to the parties concerned.

2. The State Party shall give due consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, within six months, a written response, including information on any action taken in the light of the views and recommendations of the Committee.

3. The Committee may invite the State Party to submit further information about any measures the State Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the State Party's subsequent reports under articles 16 and 17 of the Covenant.

Article 10

Inter-State communications

1. A State Party to the present Protocol may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant. Communications under the present article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under the present article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Protocol considers that another State Party is not fulfilling its obligations under the Covenant, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not settled to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) Subject to the provisions of subparagraph (c) of the present paragraph the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the Covenant;

(e) The Committee shall hold closed meetings when examining communications under the present article;

(f) In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, with all due expediency after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:

(i) If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them.

In every matter, the report shall be communicated to the States Parties concerned.

2. A declaration under paragraph 1 of the present article shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article II

Inquiry procedure

1. A State Party to the present Protocol may at any time declare that it recognizes the competence of the Committee provided for under the present article.

2. If the Committee receives reliable information indicating grave or systematic violations by a State Party of any of the economic, social and cultural rights set forth in the Covenant, the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.

3. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

4. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

5. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

6. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

7. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2 of the present article, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report provided for in article 15 of the present Protocol.

8. Any State Party having made a declaration in accordance with paragraph 1 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General.

Article 12

Follow-up to the inquiry procedure

1. The Committee may invite the State Party concerned to include in its report under articles 16 and 17 of the Covenant details of any measures taken in response to an inquiry conducted under article 11 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 11, paragraph 6, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 13

Protection measures

A State Party shall take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Article 14

International assistance and cooperation

1. The Committee shall transmit, as it may consider appropriate, and with the consent of the State Party concerned, to United Nations specialized agencies, funds and programmes and other competent bodies, its views or recommendations concerning communications and inquiries that indicate a need for technical advice or assistance, along with the State Party's observations and suggestions, if any, on these views or recommendations.

2. The Committee may also bring to the attention of such bodies, with the consent of the State Party concerned, any matter arising out of communications considered under the present Protocol which may assist them in deciding, each within its field of competence, on the advisability of international measures likely to contribute to assisting States Parties in achieving progress in implementation of the rights recognized in the Covenant.

3. A trust fund shall be established in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, with a view to providing expert and technical assistance to States Parties, with the consent of the State Party concerned,

for the enhanced implementation of the rights contained in the Covenant, thus contributing to building national capacities in the area of economic, social and cultural rights in the context of the present Protocol.

4. The provisions of the present article are without prejudice to the obligations of each State Party to fulfil its obligations under the Covenant.

Article 15

Annual report

The Committee shall include in its annual report a summary of its activities under the present Protocol.

Article 16

Dissemination and information

Each State Party undertakes to make widely known and to disseminate the Covenant and the present Protocol and to facilitate access to information about the views and recommendations of the Committee, in particular, on matters involving that State Party, and to do so in accessible formats for persons with disabilities.

Article 17

Signature, ratification and accession

1. The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Covenant.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 18

Entry into force

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.
2. For each State ratifying or acceding to the present Protocol, after the deposit of the tenth instrument of ratification or accession, the Protocol shall enter into force three months after the date of the deposit of its instrument of ratification or accession.

Article 19

Amendments

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be

notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of the present article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

Article 20

Denunciation

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.

2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under articles 2 and 10 or to any procedure initiated under article 11 before the effective date of denunciation.

Article 21

Notification by the Secretary-General

The Secretary-General of the United Nations shall notify all States referred to in article 26, paragraph 1, of the Covenant of the following particulars:

- (a) Signatures, ratifications and accessions under the present Protocol;
- (b) The date of entry into force of the present Protocol and of any amendment under article 19;
- (c) Any denunciation under article 20.

Article 22

Official languages

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 26 of the Covenant.



General Assembly

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Third Committee

Agenda item 63

Right of peoples to self-determination

Algeria, Angola, Armenia, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, China, Egypt, Eritrea, Iran (Islamic Republic of), Jordan, Kuwait, Lebanon, Malaysia, Niger, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, South Africa, Uganda and United Arab Emirates: draft resolution

Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,¹ as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military

¹ Resolution 2200 A (XXI), annex.



intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixty-first² and previous sessions,

Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 62/144 of 18 December 2007,

Reaffirming also its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, and recalling its resolution 60/1 of 16 September 2005, containing the 2005 World Summit Outcome, which, inter alia, upheld the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,³

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Human Rights Council to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on this question to the General Assembly at its sixty-fourth session under the item entitled "Right of peoples to self-determination".

² See *Official Records of the Economic and Social Council, 2005, Supplement No. 3 and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.*

³ A/63/254.



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Third Committee

Agenda item 62 (a)

Elimination of racism and racial discrimination: elimination
of racism, racial discrimination, xenophobia and
related intolerance

Benin, Cuba, Kyrgyzstan, Russian Federation, Sudan, Tajikistan, Uzbekistan,
Venezuela (Bolivarian Republic of) and Zimbabwe: draft resolution

**Inadmissibility of certain practices that contribute to fuelling
contemporary forms of racism, racial discrimination, xenophobia
and related intolerance**

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights,² the International Convention on the Elimination of All Forms of Racial Discrimination³ and other relevant human rights instruments,

Recalling the provisions of Commission on Human Rights resolutions 2004/16 of 16 April 2004⁴ and 2005/5 of 14 April 2005,⁵ and relevant Human Rights Council resolutions, in particular resolution 7/34 of 28 March 2008,⁶ as well as General Assembly resolutions 60/143 of 16 December 2005, 61/147 of 19 December 2006 and 62/142 of 18 December 2007 on this issue and resolutions 61/149 of 19 December 2006 and 62/220 of 22 December 2007, both entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action",

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 660, No. 9464.

⁴ See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

⁵ *Ibid.*, 2005, *Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

⁶ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II, sect. A.



Recalling also the Charter of the Nuremberg Tribunal and the Judgement of the Tribunal, which recognized, inter alia, the SS organization and all its integral parts, including the Waffen SS, as criminal and declared it responsible for many war crimes and crimes against humanity,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,⁷ in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action,

Recalling equally the study undertaken by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance,⁸ and taking note of his report,⁹

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups,

1. *Reaffirms* the provision of the Durban Declaration¹⁰ in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances;

2. *Expresses deep concern* about the glorification of the Nazi movement and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations in the name of the glorification of the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those who fought against the anti-Hitler coalition or collaborated with the Nazi movement as participants of national liberation movements;

3. *Expresses concern* at recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such persons, and urges States in this regard to fully comply with their relevant obligations, inter alia, under article 34 of Additional Protocol I to the Geneva Conventions of 1949;¹⁰

4. *Notes with concern* the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report;⁹

5. *Reaffirms* that such acts may be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination,¹¹ and that they may represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as

⁷ See A/CONF.189/12 and Corr.1, chap. I.

⁸ E/CN.4/2006/16 and Add.1, Add.2 and Corr.1 and Add.3 and 4.

⁹ See A/63/339.

¹⁰ United Nations, *Treaty Series*, vol. 1125, No. 17512.

well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights² and the International Convention on the Elimination of All Forms of Racial Discrimination;

6. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and those who fought against the anti-Hitler coalition or collaborated with the Nazi movement, and poison the minds of young people, and that those practices are incompatible with the obligations of States Members of the United Nations under its Charter and are incompatible with the goals and principles of the Organization;

7. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups;

8. *Emphasizes* the need to take the necessary measures to put an end to the practices described above, and calls upon States to take more effective measures in accordance with international human rights law to combat those phenomena and the extremist movements, which pose a real threat to democratic values;

9. *Reaffirms* that, according to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties to that instrument are, *inter alia*, under the obligation:

(a) To condemn all propaganda and all organizations that are based on ideas of racial superiority or that attempt to justify or promote racial hatred and discrimination in any form;

(b) To undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention;

(c) To declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(d) To declare illegal and prohibit organizations and organized and all other propaganda activities that promote and incite racial discrimination and to recognize participation in such organizations or activities as an offence punishable by law;

(e) To prohibit public authorities or public institutions, national or local, from promoting or inciting racial discrimination;

10. *Encourages* those States that have made reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to give serious consideration to withdrawing such reservations as a matter of priority;

11. *Recalls* the request of the Commission on Human Rights in its resolution 2005/5³ that the Special Rapporteur continue to reflect on this issue, make relevant

recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations;

12. *Requests* the Special Rapporteur to prepare, for submission to the General Assembly at its sixty-fourth session and the Human Rights Council, reports on the implementation of the present resolution based on the views collected in accordance with the request of the Commission on Human Rights, as recalled by the Assembly in paragraph 11 above;

13. *Urges* Governments and non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the aforementioned tasks;

14. *Decides* to remain seized of the issue.



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Third Committee

Agenda item 63

Right of peoples to self-determination

Benin, Bolivia, China, Comoros, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Eritrea, Ethiopia, Honduras, Iran (Islamic Republic of), Lao People's Democratic Republic, Libyan Arab Jamahiriya, Madagascar, Myanmar, Namibia, Panama, Peru, Russian Federation, Sri Lanka, Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and Zimbabwe: draft resolution

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 62/145 of 18 December 2007, and Human Rights Council resolution 7/21 of 28 March 2008¹ as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,² as well as the African Union,³

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of

¹ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II, sect. A.

² United Nations, *Treaty Series*, vol. 1490, No. 25573.

³ On 8 July 2002, the Organization of African Unity ceased to exist and, in its place, the African Union came into force on 9 July 2002.



peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States.

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter.

Reaffirming further the Declaration on Principles of international Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations;⁴

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in Africa and other places and the threat they pose to the integrity of and respect for the constitutional order of those countries,

Concerned by the new modalities of mercenarism, and noting that the recruitment of former military personnel and ex-policemen by private military and private security companies to serve in their employ as "security guards" in zones of armed conflict seems to be continuing,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination;⁵

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial

⁴ Resolution 2625 (XXV), annex.

⁵ See A/63/325.

integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries, including nationals, by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. *Calls upon* all States that have not yet done so to consider taking the necessary action to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;⁶

8. *Welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

9. *Condemns* mercenary activities in Africa, and commends the Governments of Africa on their collaboration in thwarting those illegal actions, which have posed a threat to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination;

10. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

11. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

12. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

13. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session,⁷ including the possible elaboration of a set of guidelines and principles for the regulation of private military and security companies;

⁶ United Nations, *Treaty Series*, vol. 2163, No. 37789.

⁷ See E/CN.4/2004/15, para. 47.

14. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

15. *Welcomes* the convening in Panama of the regional governmental consultation for Latin American and Caribbean States on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

16. *Requests* the Office of the High Commissioner to continue supporting other regional governmental consultations on this matter, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations, to discuss the fundamental question of the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the different actors, including private military and security companies, in the current context, and their respective obligations for the promotion and protection of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level;

17. *Requests* the Working Group to continue to take into account, in the discharge of its mandate, the fact that mercenary activities continue to occur in many parts of the world and are taking on new forms, manifestations and modalities, and in this regard requests its members to continue to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights and the exercise of the right of peoples to self-determination;

18. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

19. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the necessary assistance and support for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

20. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-fourth session its findings on the use of mercenaries to undermine the enjoyment of all human rights and to impede the exercise of the right of peoples to self-determination;

21. *Decides* to consider at its sixty-fourth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".

**General Assembly**

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**Sixty-third session
Third Committee**

Agenda item 63

Right of peoples to self-determination

Belarus, Benin, Bolivia, China, Comoros, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Eritrea, Ethiopia, Honduras, Iran (Islamic Republic of), Lao People's Democratic Republic, Libyan Arab Jamahiriya, Madagascar, Myanmar, Nicaragua, Namibia, Panama, Peru, Russian Federation, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Venezuela (Bolivarian Republic of) and Zimbabwe: revised draft resolution

**Use of mercenaries as a means of violating human rights and
impeding the exercise of the right of peoples to self-determination**

The General Assembly,

Recalling all of its previous resolutions on the subject, including resolution 62/145 of 18 December 2007, and Human Rights Council resolution 7/21 of 28 March 2008¹ as well as all resolutions adopted by the Commission on Human Rights in this regard,

Recalling also all of its relevant resolutions in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,² as well as the African Union,³

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality,

¹ See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II, sect. A.

² United Nations, *Treaty Series*, vol. 1490, No. 25573.

³ On 8 July 2002, the Organization of African Unity ceased to exist and, in its place, the African Union came into force on 9 July 2002.



political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,⁴

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

Extremely alarmed and concerned about recent mercenary activities in Africa and other places and the threat they pose to the integrity of and respect for the constitutional order of those countries,

Concerned by the new modalities of mercenarism, and noting that the recruitment of former military personnel and ex-policemen by private military and private security companies to serve in their employ as "security guards" in zones of armed conflict seems to be continuing,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of all human rights by peoples,

1. *Takes note with appreciation* of the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination⁵ and express its appreciation for the work of the experts of the Working Group;

2. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

3. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

4. *Urges once again* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed

⁴ Resolution 2625 (XXV), annex.

⁵ See A/63/325.

to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

5. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries, including nationals, by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

6. *Encourages* States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country;

7. *Calls upon* all States that have not yet done so to consider taking the necessary action to accede to or ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;⁶

8. *Welcomes* the adoption by some States of national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

9. *Condemns* mercenary activities in Africa, and commends the Governments of Africa on their collaboration in thwarting those illegal actions, which have posed a threat to the integrity of and respect for the constitutional order of those countries and the exercise of the right of their peoples to self-determination, and stresses the importance for the Working Group of looking into sources and root causes, as well as the political motivations of mercenaries and for mercenary-related activities;

10. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

11. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

12. *Calls upon* Member States, in accordance with their obligations under international law, to cooperate with and assist the judicial prosecution of those accused of mercenary activities in transparent, open and fair trials;

13. *Requests* the Working Group to continue the work already done by the previous Special Rapporteurs on the strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries, taking into account the proposal for a new legal definition of a mercenary drafted by the Special Rapporteur in his report to the Commission on Human Rights at its sixtieth session,⁷ including the elaboration and presentation of

⁶ United Nations, *Treaty Series*, vol. 2163, No. 37789.

⁷ See E/CN.4/2004/15, para. 47.

concrete proposals on possible complementary and new standards aimed at filling existing gaps, as well as general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities;

14. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

15. *Welcomes* the convening in Panama of the regional governmental consultation for Latin American and Caribbean States on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, in particular regarding the effects of the activities of private military and security companies on the enjoyment of human rights;

16. *Requests* the Office of the High Commissioner to inform the Human Rights Council, in a timely manner, of the dates and places for the convening of the other regional governmental consultations on this matter, bearing in mind that this process may lead to the holding of a high-level round table of States, under the auspices of the United Nations, to discuss the fundamental question of the role of the State as holder of the monopoly of the use of force, with the objective of facilitating a critical understanding of the responsibilities of the different actors, including private military and security companies, in the current context, and their respective obligations for the promotion and protection of human rights and in reaching a common understanding as to which additional regulations and controls are needed at the international level;

17. *Requests* the Working Group to continue to take into account, in the discharge of its mandate, the fact that mercenary activities continue to occur in many parts of the world and are taking on new forms, manifestations and modalities, and in this regard requests its members to continue to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the enjoyment of human rights and the exercise of the right of peoples to self-determination;

18. *Urges* all States to cooperate fully with the Working Group in the fulfilment of its mandate;

19. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Working Group with all the necessary assistance and support for the fulfilment of its mandate, both professional and financial, including through the promotion of cooperation between the Working Group and other components of the United Nations system that deal with countering mercenary-related activities, in order to meet the demands of its current and future activities;

20. *Requests* the Working Group to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixty-fourth session its findings on the use of mercenaries to undermine the enjoyment of

all human rights and to impede the exercise of the right of peoples to self-determination;

21. *Decides* to consider at its sixty-fourth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".